


MASS. AF 18.2: C15/17

* UMASS/AMHERST *



312066 0269 6999 6

CAMPAIGN FINANCE GUIDE
FOR
BALLOT QUESTION COMMITTEES

MASSACHUSETTS DOCUMENT
021177-000
FEB 7 1997

OFFICE OF
CAMPAIGN
and
POLITICAL
FINANCE

Commonwealth
of Massachusetts

904/297



Digitized by the Internet Archive
in 2012 with funding from
Boston Library Consortium Member Libraries

This brochure is designed to introduce the state campaign finance laws to treasurers of political committees organized to favor or oppose a question appearing on the state ballot. The Office of Campaign and Political Finance ("OCPF") is empowered to administer and enforce Massachusetts General Laws Chapter 55. The Office is available to assist individuals in complying with the statute and encourages candidates, treasurers, committee members, campaign workers and any interested persons to familiarize themselves with these laws and regulations.

This publication is meant only to be an introductory guide to the campaign finance laws, not a substitute for them. It is the responsibility of all those participating in political campaign financing in Massachusetts to become familiar with the provisions of the laws and regulations. Violations of the laws carry serious penalties of fines, imprisonment or both. For additional information, please contact the

Office of Campaign and Political Finance
One Ashburton Place
Boston, MA 02108
(617)727-8352
(800)462-OCPF

About the Office _____

Chapter 1173 of the Acts of 1973 strengthened the state campaign finance laws and established the Office of Campaign and Political Finance in what is commonly referred to as a reaction to Water-gate. In truth, however, the push for reforms in campaign finance disclosure laws was already well under way in states all across the country. Portions of the campaign finance laws have been on the books in Massachusetts since as early as 1884, originally legislated under Chapter 320 of the Acts of that year. Some of those original laws are the restrictions that are placed on public employees and will be discussed later in this brochure.

*The Campaign Finance Laws*_____

Chapter 55 of the Massachusetts General Laws is a comprehensive statute concerning the financing of political campaigns in the Commonwealth. The statute requires, for example, that candidates and political committees disclose contributions received and expenditures made.

The campaign finance laws also provide for limitations, and in some cases absolute prohibitions, on certain sources of campaign contributions. Additionally, the way in which campaign funds may be spent is regulated through the statute as well as through regulations and guidelines established by the Office. M.G.L. Chapter 55 also regulates certain conduct surrounding the raising and spending of campaign funds, such as the activities of public employees and the prohibited use of governmental resources for political purposes.

*The Ballot Question Committee*_____

A ballot question, or referendum, committee is defined as “any committee, association, organization or other group of persons which receives contributions or makes expenditures for the purpose of opposing or promoting a question submitted to the voters.” If you are thinking of undertaking any activity related to a ballot question, you should contact OCPF prior to doing so. Expenditures made early in the initiative petition process may be subject to the provisions of M.G.L. Chapter 55. If a ballot question appears on the state ballot, a committee favoring or opposing such a question must organize and file reports with the Office of Campaign and Political Finance prior to raising any money. This brochure is designed to assist you in this process. If the question appears on a municipal ballot, the committee should contact the city or town clerk for the proper filing requirements.

Forms

In order to familiarize you with the appropriate forms required for ballot question committees, a summary of these forms and an explanation of their purpose is provided here. OCPF will review these procedures with you upon request.

FORM CPF 101B: Statement of Organization of a Political Committee (Ballot Question)

A ballot question committee may not accept any contributions nor incur any expenses until the **treasurer** qualifies for the office of treasurer by completing, with his/her signature, and filing **FORM CPF 101B** with the Office. This form lists the names and addresses of the committee chairman, treasurer, and other officers, as well as finance committee members, if any.

FORM CPF 102B: Campaign Finance Report

Every ballot question committee is required to complete and file **FORM CPF 102B** by reporting all activity and having the treasurer sign under the penalties of perjury on or before each reporting date as discussed in the next section. Treasurers are responsible for the legality, validity, completeness and accuracy of each of their reports. The following lists information which should be filed on **FORM CPF 102B**:

Schedule A-Receipts: An alphabetical listing of all persons who made contributions in excess of \$50 in a reporting period, including the date the contribution was received and the residential address of the contributor. This information must also be reported for receipts of \$50 or less if the total contributions from such person have exceeded \$50 in the calendar year. Otherwise, amounts of \$50 and under are totaled on one line and included in total receipts.

Schedule B-Expenditures: An alphabetical listing of all disbursements of \$25 or more with the amount and date of payment, the name and address of the payee and the purpose of the expenditure. Those amounts under \$25 are totaled on one line and included in the total expenditures.

The law requires that all funds (whether receipts or expenditures) be identified as either FUNDRAISING or GENERAL. Any contribution which is made by purchasing something (e.g., a ticket to a dinner) is considered a fundraising receipt. All other receipts are considered general. Any expenditures connected with fundraising receipts are fundraising expenditures. All other expenditures are considered general.

Schedule C-In-Kind Contributions: This schedule lists each in-kind contribution representing anything of value other than money which has a value in excess of \$50, the date, the name and residential address of the contributor from whom it was received and a description of the contribution. For those contributions valued at \$50 and under, a one-line total is included in the total of all in-kind contributions for the period.

Schedule D-Liabilities: An alphabetical listing of all outstanding unpaid obligations as of the last day of the reporting period. Included is the date the liability was incurred, the name and address to whom it is due and the purpose of the liability.

Schedule E-Disclosure of Assets Statement: Disclosed on this annually-filed form are assets which have a useful life of more than one year, would be depreciable in a normal business environment, and have a cost/value of \$1,000 or more at time of acquisition.

All of the above information is summarized in a schedule on the front page of **FORM CPF 102B**. Instructions for completing **FORM CPF 102B** are printed on the form itself.

Filing Deadlines

Ballot question committees are required by statute to file periodic campaign finance reports. These reports are to be filed on FORM CPF 102B on the following schedule:

Initial Report: This report should be filed along with FORM CPF 101B (Statement of Organization) to disclose any activity that has occurred since the last state election up to the date FORM CPF 101B is filed.

60th Day Prior to the Election Report: File on the 60th day prior to the election. This filing discloses activity undertaken subsequent to the filing of FORM CPF 101B and the Initial Report (described above), complete as of the preceding fifth day.

5th and 20th of the Month Reports: After filing the report due on the 60th day prior to the election, the committee files reports on the 5th and 20th of each month until the election, complete as of the preceding 1st and 15th of the month, respectively.

5th of the Month Reports (after election): Every ballot question committee that has liabilities continues to report on the 5th of each month, complete as of the 1st of the month, until all declared liabilities have been discharged.

January 10th Report: Every ballot question committee must report every January 10th, complete as of the preceding December 31st, as long as the committee remains in existence.

Seeking an Advisory Opinion _____

Anyone wishing to receive guidance on his/her own campaign finance activities should contact the Office prior to undertaking a particular activity. This Office issues written advisory opinions to individuals based on written requests describing specific facts and circumstances. The Office will issue opinions only as to prospective activities. If you have any questions concerning advisory opinions, please contact the Office. You may also obtain informal, verbal advice by calling the Office at the numbers listed in this brochure.

In addition to specific advisory opinions, from time to time the Director issues Interpretative Bulletins setting policy guidelines on a variety of subjects. These documents are publicly available from OCPF and may be helpful in assisting candidates, committee chairs, treasurers and members of political committees or other organizations.

Filing a Complaint _____

If you have reason to believe that a violation of the campaign finance laws has occurred, you may file a complaint with the Office either in writing or in person. The Office investigates all matters brought to its attention, regardless of the source of the complaint. The identity of a complainant is considered confidential by the Office.

The Office policy on enforcement actions is such that we will not comment on any action under review. Consequently, an individual making a complaint will not receive periodic information on the status of his/her complaint. However, the complainant will receive notice of any public disposition of a case.

This Office welcomes individuals with information concerning any possible violations of the campaign finance laws to call or write OCPF.

Dissolution of a Committee _____

Consult with this Office prior to preparing your request for dissolution. Committees that do not dissolve must continue to report on a regular basis.

M.G.L. Chapter 55, section 18 provides that all residual funds from campaign accounts should be donated to the Commonwealth of Massachusetts (Local Aid Fund), c/o State Treasurer's Office, State House, Boston, MA 02133.

Treasurers of committees are required by law to preserve detailed accounts, vouchers and receipts for six years from the date of the relevant election. This statutory provision applies to all political committees organized in Massachusetts.

Contributions and Expenditures _____

The laws regarding committees organized to favor or oppose a ballot question are primarily disclosure laws and do not, by and large, place limitations on contributions or expenditures by such committees.

- Corporations, both business and not-for-profit, may contribute to ballot question committees without limitation. Any corporation, whether business or not-for-profit, which has given, paid, expended or contributed any money or any valuable thing in order to influence or affect the vote on any question submitted to the voters must file **FORM CPF 10** (Report of the Corporate Treasurer). Please contact OCPF for complete information regarding filing dates, forms and instructions on completing **FORM CPF 10**.
- Individuals may contribute to ballot question committees without limitation.

- Trusts, foundations and associations may contribute to ballot question committees without limitation. Groups other than political committees or business or not-for-profit corporations which have given, paid, expended or contributed any money or any valuable thing in order to influence or affect the vote on any question submitted to the voters must file **FORM CPF 12**. Please contact OCPF for complete information regarding filing dates, forms and instructions on completing **FORM CPF 12**.
- Political committees (candidate or multi-candidate) may contribute to ballot question committees without limitation.
- The true name and address of the donor must be furnished by the contributor to the receiver of the contribution at the time the contribution is made.
- A city, town or other governmental unit may not contribute money or any other valuable thing to a ballot question committee nor may a city, town or other governmental unit make expenditures or use its resources to favor or oppose any question that appears on a state or municipal ballot.
- Any contribution exceeding \$50 in the aggregate during a calendar year must be made by check.
- A ballot question committee may not make expenditures for lobbying and lobbying-related activities.
- A ballot question committee may not make contributions to a candidate, a candidate's committee, a multi-candidate committee or a political party committee.
- A ballot question committee may make expenditures only for the principle for which it is organized (e.g., a specific ballot question) and no other.

Restrictions on Political Activities _____

OCPF administers sections 13 through 17 of M.G.L. Chapter 55. These laws regarding public employees' political finance activity were designed to:

- Protect public employees from coercion in their employment.
- Separate governmental activity from political campaign activities.
- Protect individuals doing business with the state from being coerced into contributing to any political fund or rendering any political services.

NO state, county, city or town employee employed for compensation, other than an elected official, may directly or indirectly solicit or receive any contribution or anything of value for ANY political purpose whatsoever.

Soliciting or receiving campaign contributions by anyone in any building occupied for any state, county or municipal purpose is prohibited.

No person in the public service may be compelled to make a political contribution or to render any political service.

No public official or employee may be prejudiced in his or her employment for failure to make a political contribution, nor be so rewarded for making a political contribution.

A political committee may not solicit or receive a contribution on behalf of a candidate who is a state, county or municipal employee if the contributor has an interest in any particular matter in which the person so employed participates or which is the subject of his official responsibility.

Frequently Asked Questions ---

Q1: How much may I contribute to a ballot question committee?

A1: An individual may contribute without limitation to a committee organized to favor or oppose a ballot question.

Q2: If I would like to change some information on the previously filed FORM CPF 101B (Statement of Organization), how would I go about doing this?

A2: Any changes to the originally-filed FORM CPF 101B must be made within 10 days of the actual change. For most changes, a letter of amendment clearly stating the change from the previously-filed FORM CPF 101B may be filed with the Office. The only exception to this is in the case of a change of treasurer for which the treasurer must file a FORM CPF T101 (Change of Treasurer).

Q3: May the treasurer and chairman of a committee be the same person?

A3: Yes, unless such person is a public employee. A public employee cannot be a treasurer of any political committee.

Q4: What tax identification number should I give to the bank when opening an account for the campaign?

A4: The I.R.S. regulates U.S. revenue laws. Political campaigns should consult the I.R.S. for information on these laws and how to obtain an I.R.S. tax identification number at 617-523-1040. An individual's Social Security number should not be used for this purpose.

Q5: May a corporation make a contribution to a committee organized to favor or oppose a ballot question?

A5: Yes, and may do so without limitation. M.G.L. c.55, s.22 requires any corporation which has given a contribution or made an expenditure to influence or affect the vote on a question submitted to the voters to file FORM CPF 10 (Report of the Corporate Treasurer). Please call OCPF for forms and additional information for this filing.

Q6: Who may be authorized to sign checks on the account?

A6: The treasurer of the committee may authorize an individual to act on his/her behalf. However, that person is responsible to abide by all the requirements of M.G.L. c.55 and must give the treasurer a detailed account of all actions taken on his/her behalf on demand or, in any event, within three business days.

Q7: I am an appointed public employee. May I ask a friend or relative to contribute to a ballot question committee?

A7: No, section 13 prohibits this activity at any time.

Q8: I am a government official. May I use the resources of my agency to support or oppose a ballot initiative?

A8: No, the Massachusetts Supreme Judicial Court ruled in *Anderson v. City of Boston* that M.G.L. c.55 prohibits cities, towns and other governmental units from using their resources or facilities to influence the vote on a ballot question.

Q9: May an organization other than a political committee (labor union, association or other group) make a contribution or expend money to influence a question appearing on a ballot?

A9: Yes. Such organization may contribute, without limitation, provided that the group files with the Office FORM CPF 12 disclosing such contribution or expenditure. Please call the Office for complete information regarding the filing of this report.

Q10: What procedures do I follow if I wish to favor or oppose a question on a municipal ballot?

A10: Committees favoring or opposing a question on a local ballot should contact their city or town clerk or election commission for information and forms for the organization and filing of campaign finance reports.



The Commonwealth of Massachusetts
Office of Campaign & Political Finance
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-8352
(800) 462-OCPF